IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

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WRIT PETITION NO : 8465 of 1996

Between:

Father Balaiah Nagar Residents' Welfare Association (Regd.No.3904 of 1991), at Premises No.45, Father Balaiah Nagar, Old Alwal, Secunderabad, reptd. by its President, K.N.Ravindran Pillai.

..... PETITIONER

AND

1 The Hyderabad Urban Development Authority, Paigan Palace, Opp. to Police Lines, Begumpet, Secunderabad, reptd. by its Vice-Chairman.
2 The Commissioner, Alwal Municipality, Alwal, R.R.District.
3 ISOTECH Engineers at Pre.No.60, Father Balaiah Nagar, Old Alwal, R.R. District, represented by its Proprietrix Smt. R.Haripriya, W/o. Sri R. Satyapal, aged: 30 years, Occ: Business, R/o. Plot No.60, Father Balaiah Nagar, Old Alwal, R.R. District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to pass a writ of Mandamus or any other writ or order or direction directing the respondents (1) & (2) to forthwith to remove the industry of the 3rd respondent from the premises in Plot No.60, Father Balaiah Nagar, Old Alwal, R.R. District holding that running of an industry in a residential area is void, illegal and unlawful and contrary to HUDA regulations & Municipal rules.

Counsel for the Petitioner : MR.N.RAGHAVAN

Counsel for the Respondent No.1 : MR.T.NIRANJAN REDDY

Counsel for the Respondent No.2 : MR.R.THIMMA REDDY

Counsel for the Respondent No.3 : **MR**. **B.NALIN KUMAR**

The Court made the following :

ORDER :

This Writ Petition is filed seeking a Writ of Mandamus, directing the respondents No.1 and 2 to remove the industry being run by the 3rd respondent in Plot No.60 of Father Balaiah Nagar, Old Alwal, R.R. District.

The case of the Petitioner-Association is that Father Balaiah Nagar is purely a residential colony, which was developed pursuant to a layout granted in the year 1981-82 on the application made by 'Father Balaiah Nagar Co-operative Housing Society Limited'. It is stated that about 70 houses have come up out of a total of 300 plots. So far as the 3rd respondent is concerned, she has purchased a plot bearing No.60 with a residential house thereon, constructed by the previous owner and she is running an industry, creating nuisance to the residents of the locality. Primarily, the running of industry by the 3rd respondent is questioned on the ground that it is in the residential zone as per the Zoning Regulations issued under A.P.Urban Areas Development Act, 1975. In that view of the matter, the manufacturing of Flexible Heaters by the 3rd respondent in a residential locality, is not permissible. Further, it is stated that though representations were filed before the 2nd respondent complaining the nuisance, the same were not responded to.

The 1st and 2nd respondents have filed a common counter affidavit while the 3rd respondent has filed a separate counter affidavit.

In the counter affidavit filed by the 3rd respondent, it is stated that the

industry, which is being run by her, is a Small Scale Cottage Industry using 5 HP motor and the same is a dry operation. It is stated that her industry is neither causing any nuisance nor releasing any effluents as alleged by the Petitioner-Association. Further, it is stated that on an application filed by her, the Government, after issuing a draft notification, has issued orders in G.O.Ms.No.434, dated 22nd August 1996, permitting the change of land use from residential to industrial, so far as Plot No.60 is concerned.

In the counter affidavit filed by the 1st and 2nd respondents, it is stated that no representations have been made by the Petitioner-Association to the 1st respondent, complaining about the nuisance, as alleged in the affidavit filed in support of the Writ Petition.

Having regard to the above pleadings, what has to be seen is that the Petitioner-Association has sought for the relief mainly on the ground that the 3rd respondent is running an industry in a residential area. The Government, after following the procedure as provided under A.P. Urban Areas Development Act 1975, has issued proceedings for change of land use from residential to industrial. In view of the fact that the Government has permitted the change of land use, it cannot be stated that the 3rd respondent is in violation of the Zoning Regulations. However, in the counter affidavit filed by the 1st and 2nd respondents, it is stated that no representations have been made by the Petitioner-Association to the 1st respondent, with regard to the nuisance. Anyhow, if the residents of Petitioner-Association are having any grievance with regard to the nuisance, they have to approach the competent authorities under A.P.Municipalities Act, 1965. In view of the fact that the Government has permitted the change of land use, the relief as sought for by the Petitioner-Association, cannot be granted. However, if the residents of the Petitioner-Association are facing any nuisance or any other disturbance by virtue of running of the industry by the 3rd respondent, it is open for the Petitioner-Association to file appropriate

representation before the 2nd respondent. If such representation is filed, the 2nd respondent shall consider the same and pass appropriate orders after giving opportunities to both the parties.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

R.SUBHASH REDDY, J

07th February 2005.

ajr

To

1 The Vice-Chairman, The Hyderabad Urban Development Authority, Paigan Palace, Opp. to Police Lines, Begumpet, Secunderabad.
2 The Commissioner, Alwal Municipality, Alwal, R.R.District.
3 Two C.D. copies.